

(g)(2) *Use of magnetic media.* For information returns filed after December 31, 1996, see § 301.6011-2T of this chapter for rules relating to filing information returns on magnetic media and for rules relating to waivers granted for undue hardship. For information returns filed prior to January 1, 1997, see § 1.6045-2(g)(2).

[T.D. 8683, 62 FR 53060, Oct. 10, 1996]

§ 1.6045-3 Information reporting for an acquisition of control or a substantial change in capital structure.

(a) *In general.* Any broker (as defined in § 1.6045-1(a)(1)) that holds shares on behalf of a customer in a corporation that the broker knows or has reason to know based on readily available information (including, for example, information from a clearing organization or from information published by the Internal Revenue Service (IRS)) has engaged in a transaction described in § 1.6043-4(c) (acquisition of control) or § 1.6043-4(d) (substantial change in capital structure) shall file a return of information with respect to the customer, unless the customer is an exempt recipient as defined in paragraph (b) of this section.

(b) *Exempt recipients.* A broker is not required to file a return of information under this section with respect to the following customers:

(1) Any customer who receives only cash in exchange for its stock in the corporation, which must be reported by the broker pursuant to § 1.6045-1.

(2) Any customer who is an exempt recipient as defined in § 1.6043-4(b)(5) or § 1.6045-1(c)(3)(i).

(c) *Form, manner and time for making information returns.* The return required by paragraph (a) of this section must be on Forms 1096, "Annual Summary and Transmittal of U.S. Information Returns," and 1099-B, "Proceeds from Broker and Barter Exchange Transactions," or on an acceptable substitute statement. Such forms must be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the acquisition of control or the substantial change in capital structure occurs.

(d) *Contents of return.* A separate Form 1099-B must be prepared for each customer. The Form 1099-B will re-

quest information with respect to the following and such other information as may be specified in the instructions:

(1) The name, address and taxpayer identification number (TIN) of the customer;

(2) The name of the corporation which engaged in the transaction described in § 1.6043-4(c) or (d);

(3) The number and class of shares in the corporation exchanged by the customer; and

(4) The aggregate amount of cash and the fair market value of any stock or other property provided to the customer in exchange for its stock.

(e) *Furnishing of forms to customers—*

(1) *General requirements.* A broker must furnish Form 1099-B to the customer on or before February 15 of the year following the calendar year in which the customer receives stock, cash or other property.

(2) *Consolidated reporting.* (i) The term *consolidated reporting statement* means a grouping of statements the same broker furnishes to the same customer or group of customers on the same date for the same reporting year that includes a statement required under this section. A consolidated reporting statement is limited to statements based on the same relationship of broker to customer as the statement required to be furnished under this section.

(ii) A consolidated reporting statement must be furnished on or before February 15 of the year following the calendar year reported. Any statement that otherwise must be furnished on or before January 31 must be furnished on or before February 15 if it is furnished in the consolidated reporting statement.

(f) *Single Form 1099.* If a broker is required to file a Form 1099-B with respect to a customer under §§ 1.6045-3 and 1.6045-1(c) with respect to the same transaction, the broker may satisfy the requirements of both sections by filing and furnishing one Form 1099-B that contains all the relevant information, as provided in the instructions to Form 1099-B.

(g) *Effective date.* This section applies with respect to any acquisition of control and any substantial change in capital structure occurring after December 5, 2005.

[T.D. 9230, 70 FR 72380, Dec. 5, 2005, as amended by T.D. 9504, 75 FR 64097, Oct. 18, 2010]

§ 1.6045-4 Information reporting on real estate transactions with dates of closing on or after January 1, 1991.

(a) *Requirement of reporting.* Except as otherwise provided in paragraphs (c) and (d) of this section, a real estate reporting person ("reporting person") must make an information return with respect to a real estate transaction and, under paragraph (m) of this section, must furnish a statement to the transferor. A reporting person may also report with respect to transactions otherwise excepted in paragraphs (c) and (d) of this section. However, if the reporting person so elects, the return must be filed and the statement furnished in accordance with the provisions of this section. For the definition of a real estate transaction for purposes of these reporting requirements, see paragraph (b) of this section. For rules for determining the reporting person with respect to a real estate transaction, see paragraph (e) of this section.

(b) *Definition of real estate transaction—(1) In general.* A transaction is a "real estate transaction" under this section if the transaction consists in whole or in part of the sale or exchange of "reportable real estate" (as defined in paragraph (b)(2) of this section) for money, indebtedness, property other than money, or services. The term "sale or exchange" shall include any transaction properly treated as a sale or exchange for Federal income tax purposes, whether or not the transaction is currently taxable. Thus, for example, a sale or exchange of a principal residence is a real estate transaction under this section even though the transferor is entitled to defer recognition under section 1034 (relating to rollover of gain on sale of principal residence), or the transferor is entitled to the special one-time exclusion of gain from the sale of a principal residence

provided by section 121 to certain persons who have attained age 55.

(2)(i) *Definition of reportable real estate.* Except as otherwise provided in paragraph (c)(2) of this section, the term "reportable real estate" means any present or future ownership interest in—

(A) Land (whether improved or unimproved), including air space;

(B) Any inherently permanent structure, including any residential, commercial or industrial building;

(C) Any condominium unit, including appurtenant fixtures and common elements (including land); or

(D) Any stock in a cooperative housing corporation (as defined in section 216).

(E) Any non-contingent interest in standing timber.

(ii) For purposes of this section, the term "ownership interest" includes fee simple interests, life estates, reversions, remainders, and perpetual easements. In addition, the term "ownership interest" includes any previously created rights to possession or use for all or a portion of any particular year (*i.e.*, a leasehold, easement, or "timeshare"), with a remaining term of at least 30 years, including any period for which such rights may be renewed at the option of the holder of the rights, as determined on the date of closing (as defined in paragraph (h)(2)(ii) of this section). Thus, for example, a pre-existing leasehold on a building with an original term of 99 years is an ownership interest in real estate for purposes of this section if it has a remaining term of 35 years as of the date of closing, but not if it has a remaining term of only 10 years as of the date of closing. However, the term "ownership interest" does not include an option to acquire otherwise reportable real estate. Further, the term "ownership interest" includes any contractual interest in a sale or exchange of standing timber for a lump-sum payment that is fixed and not contingent.

(c) *Exception for certain exempt transactions—(1) Certain transfers.* No return of information is required with respect to—

(i) A transaction that is not a sale or exchange (such as a gift (including a